

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

CERTIFIED MAIL # 7001 2510 0007 6500 0981  
RETURN RECEIPT REQUESTED

In the Matter of	)	
	)	
William A. Woods	)	File Number: EB-02-ST-244
3005 S. Madison Street	)	NAL/Acct. No. 200332980003
Tacoma, WA 98409	)	FRN 0007-9944-78
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: December 30, 2002

By the Enforcement Bureau, Seattle Field Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that William Woods apparently willfully violated Section 303(n) of the Communications Act of 1934, as amended ("Act")<sup>1</sup> and Section 95.426 (CB Rule 26)<sup>2</sup> of the Federal Communications Commission ("FCC") Rules ("Rules") by refusing to make his CB Radio station and records available for inspection. We conclude, pursuant to Section 503(b) of the Act,<sup>3</sup> that Mr. Woods is apparently liable for forfeiture in the amount of seven thousand dollars (\$7,000).

**II. BACKGROUND**

2. On September 3, 2002, the FCC Enforcement Bureau's Seattle Office received a faxed report by the City of Tacoma, Washington, of complaints of neighborhood wide interference to home entertainment equipment around the 3000 block of S. Madison Street, Tacoma, Washington.

3. On October 29, 2002, at approximately 6:35 p.m. local time, Seattle Office agents, using mobile direction finding ("DF") equipment, determined that the interference signal was a transmitter station operating on the Citizen Band ("CB") frequency 27.025 MHz at the residence of Mr. William Woods at 3005 S. Madison Street, Tacoma, Washington. The Agents observed signal levels that appeared to be significantly higher than those expected from a legal CB transmitter.

4. On November 5, 2002, at approximately 5:30 p.m. local time, Seattle Office agents observed radio transmissions on 27.025 MHz in the CB band with signal levels that appeared to be significantly higher than those expected from a legal CB transmitter. Using DF equipment, the signals were positively located emanating from Mr. Woods' residence. On November 5, 2002, shortly after locating the signal source, the Seattle Office agents, assisted by two Tacoma Police Officers, requested an inspection of Mr. Woods' CB station. There was a

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<sup>1</sup> 47 U.S.C. § 303(n).

<sup>2</sup> 47 C.F.R. § 95.426.

<sup>3</sup> 47 U.S.C. § 503(b).

significant delay at the entrance to the property. The Seattle Office Agents were eventually permitted entry, though the Tacoma Police Officers were denied entry. The Seattle Office agents began the inspection of the CB radio equipment, but Mr. Woods quickly changed his mind and refused to allow the agents to proceed with the inspection. The Seattle Office agents advised Mr. Woods that refusal to allow the inspection could result in a forfeiture, and issued Mr. Woods a Notice of Unlicensed Operation.

### III. DISCUSSION

5. Section 503(b) of the Act provides that any person who willfully fails to comply substantially with the terms and conditions of any license or fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.<sup>4</sup>

6. Section 303(n) of the Act provides the FCC authority to inspect radio stations and Section 95.426 of the Rules specifically provides notice to CB operators that the CB station and records must be made available for inspection upon request by an authorized FCC representative.

7. Based on the evidence before us, we find that Mr. Woods willfully violated Section 303(n) of the Act<sup>5</sup> and Section 95.426 (CB Rule 26) of the Rules<sup>6</sup> by refusing to allow inspection. The base forfeiture amount set by *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"),<sup>7</sup> and Section 1.80 of the Rules,<sup>8</sup> for failure to permit inspection is \$7,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,<sup>9</sup> which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case, the \$7,000 forfeiture is warranted.

### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Mr. William Woods, is hereby NOTIFIED of an APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for violation of Section 303(n) of the Communications Act of 1934, as amended, and Section 95.426 of the Rules.<sup>10</sup>

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Mr. Woods SHALL PAY the full

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<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>5</sup> 47 U.S.C. § 303(n).

<sup>6</sup> 47 C.F.R. § 95.426.

<sup>7</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>8</sup> 47 C.F.R. § 1.80.

<sup>9</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>10</sup> 47 U.S.C. §§ 303(n) and 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80 and 95.426.

amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number ("FRN") and the NAL/Acct. Number referenced in the caption.

10. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, Ref: EB-02-ST-244; and must include the NAL/Acct. No. referenced in the caption.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Federal Communications Commission, Enforcement Bureau, Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>11</sup>

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail # 7001 2510 0007 6500 0981, Return Receipt Requested to Mr. William A. Woods, 3005 S. Madison Street, Tacoma, WA 98409

FEDERAL COMMUNICATIONS COMMISSION

Dennis Anderson  
District Director, Seattle Office

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<sup>11</sup> See 47 C.F.R. § 1.1914.